

In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.2261 of 2006.

Date of decision:12.12.2006.

Indian Sulphacid Industries Limited.

...Petitioner.

Versus

Reshma Kapoor and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

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Present: Mr.Vinod Kumar, Advocate for the petitioner.

Mr.K.S.Rekhi, Advocate for the respondents.

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Judgment.

S. N. Aggarwal, J.

This revision petition has been filed by the petitioner against the order dated 18.3.2006 passed by the Court of Civil Judge (Senior Division), Amritsar.

The petitioner is the plaintiff in the learned trial Court. The petitioner filed the civil suit in the year 1995 against the respondents for possession of land measuring 240 square yards.

Issues were framed.

The parties led the evidence.

The evidence of the petitioner (plaintiff in the learned trial Court) was closed by the learned trial Court on 31.1.2001. That order was challenged by the petitioner in this Court by filing a Civil Revision. That petition was accepted by this Court and the petitioner was granted one opportunity to produce its evidence and conclude the same.

Thereafter, the learned trial Court fixed the case for 3.6.2002 for the evidence of the petitioner. On that date, one witness was present . His statement was recorded partly and cross-examination was deferred on the request of the counsel for the respondents. On that date, K.K.Julka was also present but he was to appear in another case for cross-examination. Therefore, his statement was also deferred to 5.8.2002. On that date, one witness, namely, N.K.Rajgarthia was present but his statement could not be recorded because the Advocates were abstaining from work and the case was adjourned to 5.9.2002. On that day, the cross-examination of one witness was concluded and the petitioner had closed its evidence without tendering Krishan Kumar Julka for cross-examination. Thereafter, the evidence of the defendants was recorded and when the file reached the rebuttal stage, then the petitioner filed an application for permission to tender K.K.Julka PW for cross-examination. This application was dismissed by the learned trial Court vide impugned order dated 18.3.2006.

Hence, the present petition.

The submission of learned counsel for the petitioner was

that the witnesses were present and their cross-examination was deferred on the request of the respondents. Therefore, the petitioner should be granted one opportunity for producing K.K.Julka for cross-examination by the respondents.

This submission has been considered. The suit was filed by the petitioner in the year 1995. Its evidence was closed by order by the learned trial Court 31.1.2001. In the revision petition the petitioner was granted one opportunity to produce and close its evidence at its own responsibility. The petitioner availed two effective opportunities i.e. on 3.6.2002 and 5.9.2002 but failed to produce this witness for cross-examination. Moreover, on 5.9.2002, the petitioner itself closed evidence without tendering K.K.Julka PW. This, therefore, clearly shows that the petitioner did not want to tender K.K.Julka PW for cross-examination. The petitioner never applied for permission to produce K.K. Julka later on when the file was coming for the evidence of the respondents. Filing of application at rebuttal stage for permission of the Court to produce K.K.Julka PW for cross-examination, on the face of it, is not sustainable. Therefore, the learned trial Court has rightly rejected the application of the petitioner vide impugned order dated 18.3.2006. The impugned order does not suffer from any legal infirmity or illegality.

No merit.

Dismissed.

December 12, 2006.
Jaggi

(S. N. Aggarwal)
Judge